

violation of that provision. A corporation is presumed liable for any violations of this subpart that are committed by any of its subsidiaries, affiliates or parents that are substantially owned by it or substantially under its control.

(iii) Any person who violates a provision of this paragraph (f) shall be subject to a civil penalty of not more than \$32,500 per day for each violation. This maximum penalty is shown for calendar year 2004. Maximum penalty limits for later years may be set higher based on the Consumer Price Index, as specified in 40 CFR part 19. In addition, such person shall be liable for all other remedies set forth in Title II of the Clean Air Act, remedies pertaining to provisions of Title II of the Clean Air Act, or other applicable provisions of law.

[64 FR 23925, May 4, 1999, as amended at 68 FR 38455, June 27, 2003; 70 FR 40442, July 13, 2005]

§ 86.1808-07 Maintenance instructions.

Section 86.1808-07 includes text that specifies requirements that differ from those specified in § 86.1808-01. Where a paragraph in § 86.1808-01 is identical and applicable to § 86.1808-07, this may be indicated by specifying the corresponding paragraph and the statement “[Reserved]. For guidance see § 86.1808-01.”.

(a)-(e) [Reserved]. For guidance see § 86.1808-1.

(f) [Reserved]. For guidance see § 86.1808-1. For incorporation by reference see §§ 86.1 and 86.1808-1.

(g) For each new diesel-fueled Tier 2 vehicle (certified using a test fuel with 15 ppm sulfur or less), the manufacturer shall furnish or cause to be furnished to the purchaser a statement that “This vehicle must be operated only with ultra low sulfur diesel fuel (that is, diesel fuel meeting EPA specifications for highway diesel fuel, including a 15 ppm sulfur cap).”.

[66 FR 5190, Jan. 18, 2001, as amended at 68 FR 38461, June 27, 2003; 70 FR 40443, July 13, 2005]

§ 86.1809-01 Prohibition of defeat devices.

(a) No new light-duty vehicle, light-duty truck, or complete heavy-duty ve-

hicle shall be equipped with a defeat device.

(b) The Administrator may test or require testing on any vehicle at a designated location, using driving cycles and conditions which may reasonably be expected to be encountered in normal operation and use, for the purposes of investigating a potential defeat device.

(c) For cold temperature CO emission control, the Administrator will use a guideline to determine the appropriateness of the CO emission control at ambient temperatures between 25 deg. F (-4 deg. C) and 68 deg. F (20 deg. C). The guideline for CO emission congruity across the intermediate temperature range is the linear interpolation between the CO standard applicable at 25 deg. F (-4 deg. C) and the CO standard applicable at 68 deg. F (20 deg. C). For vehicles that exceed this CO emissions guideline upon intermediate temperature cold testing:

(1) If the CO emission level is greater than the 20 deg. F (-7 deg. C) emission standard, the vehicle will automatically be considered to be equipped with a defeat device without further investigation.

(2) If the CO emission level does not exceed the 20 deg. F emission standard, the Administrator may investigate the vehicle design for the presence of a defeat device under paragraph (d) of this section.

(d) For vehicle designs designated by the Administrator to be investigated for possible defeat devices:

(1) The manufacturer must show to the satisfaction of the Administrator that the vehicle design does not incorporate strategies that unnecessarily reduce emission control effectiveness exhibited during the Federal or Supplemental Federal emissions test procedures (FTP or SFTP) when the vehicle is operated under conditions which may reasonably be expected to be encountered in normal operation and use.

(2) Information requirements:

(i) Upon request by the Administrator, the manufacturer will provide an explanation containing detailed information regarding test programs, engineering evaluations, design specifications, calibrations, on-board computer

algorithms, and design strategies incorporated for operation both during and outside of the Federal emission test procedure.

(ii) For purposes of investigations of possible cold temperature CO defeat devices under this paragraph (d), the manufacturer shall provide an explanation which must show, to the satisfaction of the Administrator, that CO emissions are reasonably controlled in reference to the linear guideline, across the intermediate temperature range.

(e) For each test group of Tier 2 LDV/LLDTs and HLDT/MDPVs and interim non-Tier 2 LDV/LLDTs and HLDT/MDPVs the manufacturer must submit, with the Part II certification application, an engineering evaluation demonstrating to the satisfaction of the Administrator that a discontinuity in emissions of non-methane organic gases, carbon monoxide, oxides of nitrogen and formaldehyde measured on the Federal Test Procedure (subpart B of this part) does not occur in the temperature range of 20 to 86 degrees F. For diesel vehicles, the engineering evaluation must also include particulate emissions.

[64 FR 23925, May 4, 1999, as amended at 65 FR 6853, Feb. 10, 2000; 65 FR 59969, Oct. 6, 2000]

§ 86.1809-10 Prohibition of defeat devices.

(a) No new light-duty vehicle, light-duty truck, medium-duty passenger vehicle, or complete heavy-duty vehicle shall be equipped with a defeat device.

(b) The Administrator may test or require testing on any vehicle at a designated location, using driving cycles and conditions that may reasonably be expected to be encountered in normal operation and use, for the purposes of investigating a potential defeat device.

(c) For cold temperature CO and cold temperature NMHC emission control, the Administrator will use a guideline to determine the appropriateness of the CO and NMHC emission control at ambient temperatures between 25 °F (the upper bound of the temperature test range) and 68 °F (the lower bound of the FTP range). The guideline for CO emission congruity across the intermediate temperature range is the lin-

ear interpolation between the CO standard applicable at 25 °F and the CO standard applicable at 68 °F. The guideline for NMHC emission congruity across the intermediate temperature range is the linear interpolation between the NMHC FEL pass limit (e.g. 0.3499 g/mi for a 0.3 g/mi FEL) applicable at 20 °F and the Tier 2 NMOG standard to which the vehicle was certified at 68 °F, where the intermediate temperature NMHC level is rounded to the nearest hundredth for comparison to the interpolated line. For vehicles that exceed this CO emissions guideline or this NMHC emissions guideline upon intermediate temperature cold testing:

(1) If the CO emission level is greater than the 20 °F emission standard, the vehicle will automatically be considered to be equipped with a defeat device without further investigation. If the intermediate temperature NMHC emission level, rounded to the nearest hundredth, is greater than the 20 °F FEL pass limit, the vehicle will be presumed to have a defeat device unless the manufacturer provides evidence to EPA's satisfaction that the cause of the test result in question is not due to a defeat device.

(2) If the CO emission level does not exceed the 20 °F emission standard, the Administrator may investigate the vehicle design for the presence of a defeat device under paragraph (d) of this section. If the intermediate temperature NMHC emission level, rounded to the nearest hundredth, does not exceed the 20 °F FEL pass limit the Administrator may investigate the vehicle design for the presence of a defeat device under paragraph (d) of this section.

(d) The following provisions apply for vehicle designs designated by the Administrator to be investigated for possible defeat devices:

(1) The manufacturer must show to the satisfaction of the Administrator that the vehicle design does not incorporate strategies that unnecessarily reduce emission control effectiveness exhibited during the Federal Test Procedure or Supplemental Federal Test Procedure (FTP or SFTP) when the vehicle is operated under conditions that may reasonably be expected to be encountered in normal operation and use.